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09/851,644	05/09/2001	Peter J. Neumayer	SMUS.0008	3598

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EXAMINER

GART, MATTHEW S

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 06/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/851,644

Applicant(s)

NEUMAYER, PETER J.

Examiner

Matthew s Gart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 3,7,8,10,14-16,20 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,9,11-13,17-19 and 21-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### DETAILED ACTION

The Examiner acknowledges that claims 3, 7, 8, 10, 20 and 25 have been canceled, and claims 1, 4-6, 9, 21-22 and 24 have been amended via Paper No. 5. Claims 14-16 were withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention via Paper No. 4.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claim 1-2, 9, 11-13, 17 and 21-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker U.S. Patent No. 6,418,415.**

Referring to claim 1. Walker discloses an aggregation engine (at least Fig.1, Central Controller **200**) for use in aggregating demands according to an aggregation rule comprising:

- A demand processor (at least Fig.1, Central Controller **200**), said demand processor being outfitted so as to process demands into groups based upon said aggregation rule (at least Abstract, "Groups are preferably formed dynamically in accordance with predefined aggregation rules.");

- A group builder, said group builder being outfitted so as to compare incoming demands to existing groups, if one of said demands matches one of said existing groups (at least column 2, line 56 to column 3, line 7), assigning a group ID to said one of said demands that is associated with said one of said existing groups (at least Fig. 9), if said one of said demands does not match any of said existing groups, creating a new group and assigning a new group ID associated with the new group to said one of said demands (at least Fig. 13A, Fig. 13B, and Fig. 13C); and
- A rule engine, said rule engine being outfitted so as to build said aggregation rule according to predetermined parameters (at least Fig. 8) received from a demand aggregation application.

Referring to claim 2. Walker further discloses an aggregation engine:

- Wherein said aggregation rule is a product ID rule [(Walker U.S. Patent No. 6,418,415: at least column 6, line 64 to column 7, line 21) and (Walker U.S. Patent No. 6,085,169: at least column 21, line 66 to column 22, line 25)];

Referring to claim 9. Walker further discloses an aggregation engine wherein

- Said aggregation engine receives said predetermined parameters in an XML-based format (at least column 9, lines 57-62).

Referring to claim 11. Walker discloses a process of aggregating demands comprising the steps of:

- Validating incoming data so as to ensure said data is valid (at least column 12, line 64 to column 13, line 15);

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- Processing said incoming data so as to extract an aggregation rule and at least one demand (at least Fig. 13A, Fig. 13B, and Fig. 13C);
- Processing said aggregation rule so as to apply said aggregation rule against said at least one demand to create at least one group based upon said aggregation rule (at least Fig. 9); and
- Outputting output data indicative of said at least one group (at least Fig. 7).

Referring to claims 12-13. Walker further discloses a process of aggregating demands:

- Wherein said incoming data is XML based (at least column 9, lines 57-62); and
- Wherein said output data is XML based (at least column 9, lines 57-62).

Referring to claim 17. Walker discloses a process of creating coalitions of demands comprising the steps of:

- Creating a process ID to identify a process through which said coalitions are to be created (at least Fig. 9, Rule Number **1210**);
- Creating groups of demands based upon an application of an aggregation rule (at least Fig.9, CONDITIONS **955**);
- Assigning a unique group ID for each group created and assigning said process ID to said demands (at least Fig. 9, CPO Number **930**);
- Assigning said demands to said coalitions based upon said group IDs (at least Fig. 9, CPO Number **930** and CONDITIONS **955**); and
- Once a predetermined time period has passed, closing said coalitions (at least Fig. 9, AGGREGATE CPO EXPIRATION DATE **950**).

Referring to claim 21. Walker further discloses a process of creating coalitions of demands comprising the steps of:

- Determining if any attributes of said demands are missing (at least Fig. 13B, Step **1318**); and
- If said attributes are missing, automatically acquiring said attributes from another source (at least Fig. 13B).

Referring to claim 22. Walker discloses a process of grouping demands input into a system by a user into coalitions of demands comprising the steps of:

- Inputting demands into a demand aggregation application (at least Fig. 13A, Step **1308**);
- Analyzing said demands by applying an aggregation rule (at least Fig. 13A, Step **1314**);
- If said analysis of said demands indicates that said demands meet criteria of one or more of said coalitions, proposing said one or more of said coalitions to said user (at least Fig. 13A, Step **1316**);
- Permitting said user to assign said demands to said one or more of said coalitions (at least Fig. 13B, Step **1324**); and
- If said analysis of said demands indicates that said demands do not meet criteria of one or more of said coalitions, automatically creating a new coalition to accommodate said demands (at least Fig. 13C, Step **1344**).

Referring to claim 23. Walker in view of Official Notice discloses a process according to claim 22 as indicated supra. Walker further discloses a process of grouping demands comprising the steps of:

- Determining if any attributes of said demands are missing (at least Fig. 13B, Step 1318); and
- If said attributes are missing, acquiring said attributes from another source (at least Fig. 13B).

Referring to claim 24. Walker discloses a process of aggregating demands according to an aggregation rule comprising the steps of:

- Collecting demands from a plurality of sources;
- Determining if any attributes of said demands are missing;
- If said attributes are missing, acquiring said attributes from another source;
- Creating groups of demands based upon an application of said aggregation rule (at least Fig. 13A, Fig. 13B, and Fig. 13C); and
- Forwarding said demands to a demand aggregation application (at least Fig. 13B, STEP 1326).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 4-6 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker U.S. Patent No. 6,418,415 in view of Official Notice.**

Referring to claims 4-6. Walker discloses an aggregation engine according to claim 1 as indicated supra. Walker further discloses an aggregation engine wherein said aggregation rule is a product ID rule. Walker does not expressly disclose an aggregation engine:

- Wherein said aggregation rule supports a UN/SPSC classification;
- Wherein said aggregation rule supports an e-class classification; and
- Wherein said aggregation rule -supports hierarchical classifications.

The Examiner Takes Official notice that the form of classification does not act to patentably distinguish the instant invention. The form of classification is not functionally related to the aggregation engine as disclosed. It would have been an obvious matter of design choice to modify Walker to comprise multiple classification forms in order to manage the sale of goods and services by one or more sellers to a group of buyers who have submitted purchase offers for the purchase of such goods and services (Walker U.S. Patent No. 6,418,415: at least column 1, lines 15-20).

Referring to claims 18-19. Walker discloses a process according to claim 17 as indicated supra. Walker further discloses a process of creating coalitions of demands comprising the step of permitting automatic addition of additional demands to said coalitions and also permitting coalitions to be automatically closed prior to said predetermined time period passing (at least Figs. 13A, Figs. 13B, and Figs. 13C). Walker does not expressly disclose a process of creating coalitions of demands



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comprising the step of permitting manual addition of additional demands to said coalitions and also permitting coalitions to be manually closed prior to said predetermined time period passing. Examiner takes Official Notice that the manual limitation present in the immediate application does not act to patentability distinguish the claimed invention. It would have been obvious to a person of ordinary skill in the art at the time of the invention to permit the manual limitation in lieu of Walker's automatic limitation, because the manual limitation is merely a step backwards in the Walker's technology. It has generally been recognized that merely providing an automatic (manual) means to replace a manual (automatic) activity which accomplishes the same result is not sufficient to distinguish over the prior art, *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958).

### ***Response to Arguments***

Applicant's arguments with respect to claim 4-6 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 14 April 2003 have been fully considered but they are not persuasive.

The Applicant argues that Walker (415') does not disclose a rule engine, said rule engine being outfitted so as to build said aggregation rule according to predetermined parameters (at least Fig. 8) received from a demand aggregation application. The Examiner notes, Walker does disclose a rule engine whereby rules are generated by the revenue management system, yield management system, or profit management system of the respective agency-based seller, or by any system that

controls and manages inventory. For a more detailed discussion of CPO rules, the manner in which they are generated and related security issues, see U.S. patent application Ser. No. 08/889,319, entitled Conditional Purchase Offer Management System, filed Jul. 8, 1997, the parent application to the present invention, which is incorporated by reference herein (column 6, line 64 to column 7, line 21).

The Applicant argues that Walker does not disclose an XML-based format. The Examiner notes, Walker does disclose a system and method wherein the buyer and sellers are connected via the Internet. XML is defined as a metalanguage written in SGML that allows one to design a markup language, used to allow for the easy interchange of documents on the Internet. The use of an XML-based format is inherent when one discusses the transfer of information between to remote parties via the Internet.

The Applicant argues that there is no mention of checking the validity of incoming data. Walker does disclose a system wherein the central controller **200** will receive the conditions, price and expiration date associated with the CPO from the buyer, including a description of each good or service, and an identifier of a general purpose account from which funds may be paid, such as a credit or debit card account, during step **1304**. This identifier of a general-purpose account is used to verify the buyer's financial transaction. It would not be possible for a buyer to transfer these funds unless relevant information was verified.

The Applicant argues that in Walker, the rule is not extracted from incoming data. The Examiner notes, a CPO rule is a set of restrictions defined by a given agency-

based seller, such as seller **400**, to define a combination of such restrictions for which the seller is willing to accept a predefined minimum price. In addition, CPO rules can include guidelines defined by a given agency-based seller, such as seller **400**, for the formation of groups as part of an aggregate CPO. In Walker the rule is extracted via guidelines defined by the seller. Seller provided guidelines can be defined as incoming data.

The Applicant argues that Walker does not disclose automatically acquiring the missing attributes from another source. The Examiner notes, Fig. 13B is a flowchart of steps that are automatically performed by the central controller. If a CPO does not meet all criteria's (i.e. some relevant information is missing, Step 1318), the central controller will search the CPO database in order to locate the missing information (Step 1334).

The Attorney argues that Walker does not disclose proposing said one or more of said coalitions to said user. The Examiner notes that if a seller accepts a given CPO, either individually or collectively as part of an aggregate CPO, the aggregate CPO management system binds the buyer(s) on behalf of the accepting seller, to form one or more legally binding contracts (column 2, line 56 to column 3, line 7). In order for the seller to accept the CPO, he/she would have had to be proposed the CPO.

### ***Conclusion***

Any inquiry concerning this communication should be directed to Matthew Gart whose telephone number is 703-305-5355. This examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EST.

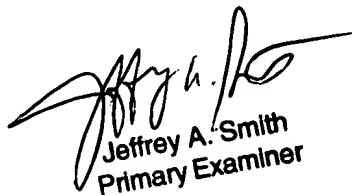
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

MSG

June 9, 2003



Jeffrey A. Smith  
Primary Examiner